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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,233	11/09/2000	Lewis T. Ladocsi	158.7019USU	3087

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Paul D. Greeley
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER
KALINOWSKI, ALEXANDER G

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/709,233	Ladocsi et al.
Examiner	**Art Unit**
Alexander Kalinowski	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Nov 9, 2000*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.**

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.

DETAILED ACTION

1. Claims 1-19 are presented for examination.

Claim Rejections - 35 USC § 112

2.The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1-18, the claim language contains multiple recitations of the phrase "and/or". For example, in claim 1, line 10, uses the phrase "and/or" before said altered or adjusted data. It is unclear if this limitation is required or is optional. For purposes of applying prior art, the Examiner interprets all instances of the phrase "and/or" to be --or--.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-8, 11-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minturn, Pat. No. 5,692,501 in view of Summerell et al., Pat. No. 5,937,387 (hereinafter Summerell).

As per claim 1, Minter discloses a life expectancy management system (i.e. scientific wellness, health, fitness ...)(see abstract) which comprises:

a means which is capable of storing health profile data (i.e. optimal health/fitness database)(col. 12, lines 47-60 and col. 14, lines 37-58);

a means for altering or adjusting said data based upon the occurrence of at least one event (i.e. wellness improvements and/or changes in levels of health risk ...)(col. 12, lines 47-60).

Minter does not explicitly disclose

a means for predicting life expectancy based upon said health profile data and/or said altered or adjusted data.

However, Summerell discloses a means for predicting life expectancy based upon said health profile data and/or said altered or adjusted data (see Fig. 10 and Fig. 30). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include a means for predicting life expectancy based upon said health profile data and/or said altered or adjusted data as disclosed by Summerell within Minter for the motivation of counseling individuals to adopt healthy lifestyles (col. 2, lines 57-65).

As per claim 2, Minter discloses the system according to claim 1 wherein the storage means is a machine readable storage medium (i.e. software)(col. 13, lines 1-3).

As per claim 3, Minter discloses the system according to claim 1 wherein said health profile data comprises at least one of the following: genetic data, birth data, lifestyle data, pediatric health data, and adulthood health data (i.e. personal medical, health and fitness histories)(col. 14, line 65 - col. 15, line 6).

As per claim 4, Minter does not explicitly disclose the system according to claim 1 wherein said event is selected from the group consisting of: chronic and routine health events, emergency health events, pregnancy data and medical advancements.

However, Summerell discloses said event is selected from the group consisting of: chronic and routine health events, emergency health events, pregnancy data and medical advancements (see Fig. 10). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said event is selected from the group consisting of: chronic and routine health events, emergency health events, pregnancy data and medical advancements as disclosed by Summerell within Minter for the motivation of counseling individuals to adopt healthy lifestyles (col. 2, lines 57-65).

As per claim 5, Minter does not explicitly disclose the system according to claim 1 wherein said means for predicting life expectancy is a microprocessor comprising a prediction modeling logic.

However, Summerell discloses said means for predicting life expectancy is a microprocessor comprising a prediction modeling logic (col. 17, lines 7-14). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said means for predicting life expectancy is a microprocessor comprising a prediction modeling logic as disclosed by Summerell within Minter for the motivation of counseling individuals to adopt healthy lifestyles (col. 2, lines 57-65).

As per claim 6, Minter does not explicitly disclose the system according to claim 5 wherein said prediction modeling logic provides a predetermined life expectancy which is reduced by deviations from expectations which are calculated from said health profile data and/or said altered or adjusted data.

However, Summerell discloses said prediction modeling logic provides a predetermined life expectancy which is reduced by deviations from expectations which are calculated from said health profile data and/or said altered or adjusted data (Fig. 10, Fig. 30 and col. 2, lines 57-65).. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said prediction modeling logic provides a predetermined life expectancy which is reduced by deviations from expectations which are calculated from said health profile data and/or said altered or adjusted data as disclosed by Summerell within Minter for the motivation of counseling individuals to adopt healthy lifestyles (col. 2, lines 57-65).

As per claim 7, Minter does not explicitly disclose the system according to claim 6 further comprising a means for providing recommended goals and/or incentives based upon the life expectancy predicted and the predetermined life expectancy.

However, Summerell discloses a means for providing recommended goals and/or incentives based upon the life expectancy predicted and the predetermined life expectancy (col. 17, lines 7-27). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include a means for providing recommended goals and/or incentives based upon the life expectancy predicted and the predetermined life expectancy as disclosed by Summerell within Minter for the motivation of counseling individuals to adopt healthy lifestyles (col. 2, lines 57-65).

As per claim 8, Minter discloses the system according to claim 1 wherein said means for altering said data is a microprocessor and/or Internet service provider which is in communication with said storage means (Fig. 1 and col. 12, line 66 - col. 13, line 32).

As per claims 11-16 and 18-19, the claims are substantially similar to claims 1-8 and are rejected on the same basis.

6. Claims 9, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minter and Summerell as applied to claims 1 and 11 above, and further in view of Ballantyne et al., Pat. No. 5,867,821 (hereinafter Ballantyne).

As per claims 9, 10 and 17, Minter and Summerell do not explicitly disclose the system according to claim 1 further comprising a means for providing secure access only to said health profile data and/or said altered or adjusted data.

However, Ballantyne discloses a means for providing secure access only to said health profile data and/or said altered or adjusted data (i.e. personal ID number)(col. 7, line 66 - col. 8, line 34). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include a means for providing secure access only to said health profile data and/or said altered or adjusted data as disclosed by Ballantyne within Minter and Summerell for the motivation of authenticating individuals requesting access to the health profile data (i.e. health record database)(col. 8, lines 1-5).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. .

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:30 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reached the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this

group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.

Alexander Kalinowski

Patent Examiner

Art Unit 3626

June 29, 2003